

**IC 34-55**

**ARTICLE 55. EXECUTION OF JUDGMENTS**

**IC 34-55-1**

**Chapter 1. Execution of Judgments Generally**

**IC 34-55-1-1**

**Enforcement of judgments requiring payments of money or delivery of real or personal property**

Sec. 1. When a judgment requires the payment of money or delivery of real or personal property, the judgment may be enforced by execution as provided in this chapter. When the judgment requires the performance of any other act, a certified copy of the judgment may be served upon:

- (1) the party against whom the judgment is given; or
- (2) the person or officer who is required by the judgment or by law to obey the judgment;

and the person's obedience to the judgment may be enforced. If the person refuses to obey the judgment, the person may be punished by the court as for contempt.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-2**

**Issuance after lapse of ten years**

Sec. 2. (a) After the lapse of ten (10) years after:

- (1) the entry of judgment; or
- (2) issuing of an execution;

an execution can be issued only on leave of court, upon motion, after ten (10) days personal notice to the adverse party, unless the adverse party is absent or a nonresident, or cannot be found.

(b) When an execution is issued on leave of court under subsection (a), service of notice may be made by publication, as in an original action, or in a manner as the court directs. Leave shall not be given unless it is established by the oath of the party or other satisfactory proof that the judgment or part of the judgment remains unsatisfied and due.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-3**

**Three kinds of executions**

Sec. 3. There are three (3) kinds of executions:

- (1) Execution against the property of the judgment debtor.
- (2) Execution against the person of the judgment debtor.
- (3) Execution for the delivery of the possession of real or personal property, or such delivery with damages for withholding real or personal property.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-4**

**Executions issued to sheriffs**

Sec. 4. Executions may be issued to the sheriffs of different counties at the same time. However, the plaintiff shall pay the costs upon all executions not necessary to the collection of the plaintiff's judgment.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-5**

##### **Form of execution**

Sec. 5. The execution must:

- (1) issue in the name of the state;
- (2) be directed to the sheriff of the county;
- (3) be sealed with the seal of the court; and
- (4) attested by the clerk of the court.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-6**

##### **Reference to judgment in execution**

Sec. 6. The execution must intelligibly refer to the judgment, stating:

- (1) the court where and the time when rendered;
- (2) the names of the parties;
- (3) the amount, if the judgment is for money; and
- (4) the amount actually due on the judgment.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-7**

##### **Requirements of sheriff in execution**

Sec. 7. The execution must require the sheriff to do the following:

- (1) If the execution is against the property of the judgment debtor, the execution must require the sheriff to satisfy the judgment out of the property of the debtor, subject to execution.
- (2) If the execution is against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, the execution must require the sheriff to satisfy the judgment out of that property.
- (3) If the execution is against the body of the judgment debtor, the execution must require the sheriff to arrest the debtor and commit the debtor to the jail of the county until the debtor pays the judgment or is discharged according to law.
- (4) If the execution is for the delivery of the possession of real or personal property, the execution:
  - (A) must require the sheriff to deliver the possession of the property, particularly describing the property to the party entitled to the property; and
  - (B) may at the same time require the sheriff to satisfy any costs, damages, rents, or profits recovered by the judgment out of the property of the party against whom the judgment was rendered, subject to execution.

The value of the property for which the judgment was recovered must be specified in the execution if a delivery cannot be made,

and shall, in that respect, be considered an execution against property.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-8**

##### **Executions against body; when issued**

Sec. 8. An execution against the body shall not be issued while an execution against the property remains unreturned.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-9**

##### **Executions against property; when issued**

Sec. 9. An execution against the property shall not be issued while there is an execution against the body unreturned.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-10**

##### **Execution against body or property; issuance to sheriff**

Sec. 10. (a) When the execution is against the property or body of the judgment debtor, the execution may be issued to the sheriff of any county in Indiana.

(b) When the execution requires the delivery of real or personal property, the execution must be issued to the sheriff of the county where the property or part of the property is located.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-11**

##### **Return of execution**

Sec. 11. (a) Except as provided in subsection (b), the execution shall be returned not later than ninety (90) days after the date of the execution.

(b) The judgment creditor, at the time of filing praecipe for execution, may designate any other time less than ninety (90) days for the return of the execution. In that case, the execution shall be returned within the time fixed by the judgment creditor.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-1-12**

##### **Execution against goods and chattels; priorities**

Sec. 12. (a) When an execution against the property of any person is delivered to an officer to be executed, the goods and chattels of the person within the jurisdiction of the officer is bound from the time of the delivery.

(b) If there are several executions against the same defendant in the hands of different officers, that execution, without regard to the time of its delivery under which the first levy is made, has the preference, and all liens created by the prior delivery of any other execution are divested in favor of the execution first levied.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-13****Endorsement by sheriff**

Sec. 13. The sheriff receiving an execution shall endorse on the execution the year, month, day, and hour when the sheriff received the execution.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-14****Executions against principal and surety; principal's property first**

Sec. 14. If it appears upon the face of an execution or by the endorsement of the clerk that of those persons against whom the execution is issued, any one (1) person is surety for another, the property of the principal shall be first sold, unless the surety directs otherwise.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-15****Issuance on Sunday**

Sec. 15. An execution may be issued and executed on Sunday whenever an affidavit is filed by the plaintiff or another person on the plaintiff's behalf, stating that the plaintiff has reason to fear and believe that the plaintiff will lose the judgment unless process is issued on Sunday.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-16****Clerk's endorsement on Sunday service**

Sec. 16. The clerk shall endorse on the execution that the defendants are not privileged from service on Sunday.

*As added by P.L.1-1998, SEC.51.*

**IC 34-55-1-17****Sheriff; death or vacancy in office**

Sec. 17. If the sheriff dies or leaves office before the return of an execution, the sheriff's successor or other officer authorized to discharge the duties of the office shall proceed in the same manner that the sheriff should have done.

*As added by P.L.1-1998, SEC.51.*